



# Bulletin

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2004-03B

## 2003 LEGISLATION

TO: Local Officials

FROM: Gerard D. Perry, Acting Deputy Commissioner  
Division of Local Services

DATE: February 2004

SUBJECT: Summary of 2003 Municipal Finance Law Changes

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To keep you informed of legislative developments during the year, the Division of Local Services publishes on a periodic basis a **BULLETIN** summarizing any new laws enacted that affect municipal budgets and local tax assessment, administration and collection. Each issue contains a cumulative summary of session laws enacted to that time and indicates whether the Division has issued or will issue any further implementation guidelines.

Attached is the **final** edition of the **2003 LEGISLATIVE BULLETIN**. It includes any legislative changes affecting municipal finance found in Chapters 1 – 172 of the Acts of 2003. Summaries of legislation enacted since the August 2003 edition was issued begin on page 18 with Chapter 137. Any changes in or additions to the previously issued material are underscored.

Copies of these new laws can be obtained from the web site of the State Legislature: [www.mass.gov/legis](http://www.mass.gov/legis) or the State Bookstore located in Room 116 of the State House.

## **2003 LEGISLATION**

### **Ch. 1      FY2003 STATE BUDGET REDUCTIONS**

**An Act Expanding the Governor's Authority to Address Deficiencies in Revenue.** *Effective January 17, 2003.*

Expands the Governor's power to make budget cuts under G.L. Ch. 29B §9C for the purpose of addressing revenue shortfalls that occur during a fiscal year. The power ordinarily extends only to appropriations made for executive branch agencies under the Governor's control. For Fiscal Year 2003, the power includes appropriations made for certain local aid distributions to cities, towns and regional school districts.

### **Ch. 4      FISCAL YEAR 2003 SUPPLEMENTAL BUDGET**

**An Act Making Appropriations for Fiscal Year 2003 to provide for supplementing certain existing appropriations and for certain other activities and projects.** *Effective March 5, 2003.*

**§73 Municipal Tax Amnesty.** Allows cities and towns to adopt and implement a temporary tax amnesty program. The program must be enacted by town meeting, town council or city council with the approval of the mayor. It may provide for the waiver of all or a uniform percentage of all interest, collection costs and penalties accrued on delinquent property taxes, motor vehicle excises or boat excises, but not the underlying tax or excise. The taxpayer must pay the tax or excise within the amnesty period established under the program. That period may begin anytime after the effective date of the vote and must end no later than December 31, 2003. **Informational Guideline Release (IGR) No. 03-207 issued March 2003.** The deadline for completing amnesty programs has now been extended to June 30, 2004. **See Ch. 46 §113 of the Acts of 2003 below.**

### **Ch. 26     FY2004 STATE BUDGET**

**An Act Making Appropriations for the Fiscal Year 2004 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements.** *Effective July 1, 2003.*

**§3 Local Aid Advances.** Authorizes the State Treasurer to advance payments of FY04 local aid distributions to a city, town, regional school district or independent agricultural and technical school that demonstrates an emergency cash shortfall, as certified by the Commissioner of Revenue and approved by the Secretary of Administration and Finance.

**§3 Regional School District Budgets.** Provides temporary FY04 spending authority for regional school districts that do not have approved budgets as of July 1, 2003. The authority is limited to one-twelfth of the district's FY03 budget, on a month to month basis, for up to two months. Also requires districts that submitted budgets to member cities and towns based on municipal receipt of Chapter 70 funds as reflected in the Governor's proposed FY04 budget (House 1) to recalculate assessments and certify them to the communities. Communities then have 45 days to approve or disapprove the revised assessments. If the revised assessments are not approved by two-thirds of the district members, the provisions of the regional school budget statute, G.L. Ch. 71 §16B, regarding amendment and resubmission of the budget apply. **BULLETIN 2003-14B issued July 2003.**

**§186 Medicaid Reimbursements.** Amends G.L. Ch. 44 §72 to make charter schools eligible to receive reimbursements for providing medically necessary services for special needs students under the federal Medicaid program.

**§§426-432 Firearm License Fees.** Amend G.L. Ch. 140 §§122, 122B, 129B(9), 131(i), 131A, 131F and 131H, which relate to the issuance of firearms identification cards and licenses to sell ammunition and carry, rent or lease various types of firearms. The fees have been increased to \$100, with \$25 to be retained by the municipality issuing the license or card and the \$75 balance to be paid over to the state. Law enforcement personnel obtaining licenses to carry under G.L. Ch. 140 §131(i) will pay a reduced fee of \$25, which will be split equally between the municipality and state.

**§503 Civil and Criminal Process Fees.** Amends schedule found in G.L. Ch. 262 §8 for fees charged by sheriffs, deputy sheriffs and constables for the service of civil and criminal process. **See Ch. 46 §20 of the Acts of 2003 below for explanation of new provisions requiring constables to turn over a portion of the increase in civil process fees, and make an annual report, to municipal treasurers.**

**§504 Marriage Fees.** Amends Clause 42 of G.L. Ch. 262 §34 to increase certain fees charged by city and town clerks for notices of intention to marry and marriage certificates and to provide for remittance to the state. **But see Ch. 55 §6 of the Acts of 2003 below that eliminates this clause.**

**§604 Alternative Funding Source for Schools.** Establishes a special commission to study alternatives to using the property tax to fund public education. The commission includes the Speaker of the House and Senate President, or their designees, three members appointed by each of the Speaker and Senate President, the chairs of the Senate and House Ways and Means Committees, or their designees, the chairs of the Joint Committees on Taxation and on Education, Arts and Humanities, the Secretary of Administration and Finance, and one member appointed by each of the following: the Department of Revenue (DOR), Suburban Coalition, Massachusetts Taxpayer's Foundation, Massachusetts Municipal Association, Associated Industries of Massachusetts and the Massachusetts Budget and Policy Center. The commission is to report to the Senate and House Ways and Means Committees and the Joint Committees on Taxation and on Education, Arts and Humanities by January 30, 2004.

**§607 Chapter 70 Reform.** Creates joint House and Senate working group to study reform of the current school financing formula found in G.L. Ch. 70. The working group includes the President of the Senate, Speaker of the House, House Minority Leader, and Senate Minority Leader, or their designees, the chairs of the Senate and House Ways and Means Committees, and the chairs of the Joint Committee on Education, Arts and Humanities. The working group is to report to the Joint Committee on Education, Arts and Humanities by October 9, 2003.

**§610 Education Reform Waivers.** Permits cities, towns and regional school districts to apply for various adjustments in their FY2004 minimum required contributions to schools under the education reform act. Municipalities may seek adjustments if (1) non-recurring revenues were used to support FY2003 operating budgets and those revenues are not available in FY2004, (2) they have extraordinary non-school related expenses in FY2004, or (3) their FY2004 municipal revenue growth factor is at least 2.5 times the statewide average and is deemed to be excessive. Regional school districts that (1) used non-recurring revenues in FY2003 that are unavailable for FY2004, or (2) received regional incentive aid in FY95 must seek waivers if a majority of the selectmen in a town, the city council in a Plan E city or the mayor in all other cities in a majority of the member municipalities requests them.

Requests for waivers by municipalities are made by the selectmen in a town, the city council in a Plan E city or the mayor in all other cities by October 1, 2003. If a regional school budget has already been approved by the members and a waiver is granted of any member's minimum required local contribution to the district, the use of that waiver must be approved by the selectmen, the city council in a Plan E city or the mayor in all other cities of a majority of the member municipalities. The Department of Education (DOE) will determine regional school district waivers based on receipt of regional incentive aid. DOR administers the other waiver programs. **IGR 03-301 issued July 2003.**

#### Ch. 46      **MUNICIPAL RELIEF**

**An Act Providing Relief and Flexibility to Municipal Officials.** *Effective July 31, 2003.*

**§§6, 11, 14-15, 17, 21-32, 37, 74-80 and 139 Emergency Finance Board Abolition.** Abolishes the Emergency Finance Board, which provided state oversight of certain municipal borrowings and appropriations. Some of the board's duties will be carried out by a replacement board comprised of the Attorney General, State Treasurer, State Auditor and the Director of Accounts in the Division of Local Services of DOR. Others will be performed by local officials. **IGR 03-102 issued August 2003.**

**§§7 and 35 Local Government Audits by State Auditor.** Amends G.L. Ch. 11 §12, which sets out the audit power of the Office of the State Auditor. The state auditor may now conduct audits of accounts, programs or activities of a city, town, regional school district or county upon request. Requests are made in a town by majority vote of the selectmen or school committee that is ratified by town meeting, in a city by majority vote of the city council and approval of the mayor, in a regional school district by a two-thirds vote of the regional school committee, and in a county by majority vote of the county commissioners. The local government is responsible for paying the expenses of the audit. In addition, under a new provision, G.L. Ch. 44 §42A, the state auditor may establish a two-year pilot program for the audit of a city, town, regional school district or county where there are suspected irregularities or illegal acts.

**§12 Health Insurance for Call Firefighters or Volunteer Emergency Service Personnel.** Amends the definition of employee in G.L. Ch. 32B §2 for purposes of group health insurance eligibility to include members of a call fire department or other volunteer emergency service personnel. The members must be designated as eligible employees by town meeting, town council or city council vote and must pay 100 percent of the premium. Compare G.L. Ch. 32B §2B, which authorizes full benefits for reserve, permanent, intermittent or call fighters if the community accepts that section.

**§13 Retiree Health Insurance Contributions.** Amends G.L. Ch. 32B §9A to allow regional school districts to provide a group health insurance benefit of a 50 percent premium contribution to district employees after retirement. Also allows towns to provide the benefit with a town meeting vote as an alternative to referendum. Under prior law, referendum was the sole method for doing so.

**§14 Multiple Stabilization Funds.** Amends G.L. Ch. 40 §5B, which previously provided for a single stabilization fund into which cities, towns and districts could appropriate monies to be reserved for future appropriation for any lawful purpose. Under the amendment, a community may now establish one or more stabilization funds for different purposes by a two-thirds vote of its legislative body. The purposes of those funds may be amended at a later time in the same manner, except where the municipality votes to override its levy limit for purposes of making appropriations to the fund. **See §50 below.** Appropriations both into and from the funds require a two-thirds vote of the legislative body. Previously, appropriations to the stabilization fund only required a majority vote. The current limit on annual appropriations into the fund (10 percent of prior year's tax levy) is retained, but it will now apply to the total appropriations made to all stabilization funds and may be exceeded with approval of the director of accounts. The current limit on the single fund balance (10 percent of equalized valuation) will now apply to the total balances of all stabilization funds. In addition, interest earned on all stabilization funds now belongs to the general fund. Under prior law, it remained with the stabilization fund. **But see Ch. 140 §19 of the Acts of 2003 below that restores interest to the fund. IGR 04-201 issued January 2004.**

**§§16 and 47A Urban Center Housing Tax Increment Financing.** Adds a new section 60 to G.L. Ch. 40, that allows cities and towns to grant a new urban center housing tax increment financing exemption (UCH-TIF) to encourage multi-unit residential development in urban centers that have a predominance of commercial land uses. To grant the UCH-TIF, communities must prepare a comprehensive plan for the development or redevelopment of downtown properties for residential or mixed residential and commercial use within a designated “urban center housing tax increment financing zone.” The exemption could last for 20 years and would be calculated in essentially the same manner as the current TIF exemption available to encourage economic development under G.L. Ch. 40 §59 and Ch. 59 §5(51). At least 25 percent of the units created must be affordable housing to occupants with household income less than 80 percent of the area wide median income as determined by the United States Department of Housing and Urban Development (HUD). The Department of Housing and Community Development (DHCD) must approve UCH-TIF exemptions and agreements. DHCD, in consultation with DOR, will issue regulations governing the approval process and criteria. **An IGR explaining the implementation of the exemption by the assessors will be issued.**

**§18 District Improvement Financing.** Adds a new chapter, G.L. Ch. 40Q, which authorizes cities and towns to create districts to develop infrastructure improvements, housing and other capital projects designed to improve the area. Creation of the district is by vote of town meeting, town council or city council with the approval of the mayor and certification by the state Economic Assistance Coordinating Council (EACC) of a development plan consistent with the purposes of the district in accordance with regulations it issues. Communities may issue bonds and notes to fund the improvements within the district. **An IGR explaining the borrowing and special fund provisions of this legislation will be issued.**

**§19 Bi-weekly Payroll Authorization.** Amends G.L. Ch. 41 §41, the municipal payroll statute, to allow municipal treasurers to use a bi-weekly or semi-monthly payroll system, except as otherwise provided by collective bargaining agreements. See G.L. Ch. 149 §148 already in place authorizing bi-weekly payrolls.

**§20 Constable Fees and Reporting.** Adds two new sections, 95A and 95B, to G.L. Ch. 41. Under the new G.L. Ch. 41 §95A, constables appointed or elected to serve process in a municipality are now required to turn over to the municipal treasurer 50 percent of the increase in fees they collect as a result of any change in the civil process fee structure that was in place before July 1, 2003. See G.L. Ch. 262 §8 and **Ch. 26 §503 of the Acts of 2003 above**. The revenue belongs to the municipality's general fund and may be spent after appropriation for any municipal purpose. The new G.L. Ch. 41 §95B requires constables to provide the treasurer with an annual accounting of all fees received, the number of process transactions and the constables' expenses, including compensation to employees and independent contractors. The report is due by April 15 of each year and must be signed under penalties of perjury. **See Ch. 140 §§20 and 21 of the Acts of 2003 below for amendments regarding the turnover amount and reporting procedures.**

**§33 Bond Premiums and Calculation of Debt Exclusion.** Amends G.L. Ch. 44 §20, which governs the use of bond proceeds. The amendment codifies DOR policy regarding the treatment of premiums received on borrowings subject to a Proposition 2½ debt exclusion and makes the policy effective in FY05, instead of FY04 as announced. **See BULLETIN 2003-11B issued May 2003.** Under the change, cities and towns may only exclude the true interest cost on the borrowing.

**§§34 and 78 Regional School Debt Refinancing.** Amends G.L. Ch. 44 §21A, to clarify that regional school districts may refinance debt under the same terms and conditions as cities, towns and other districts. In addition, a new paragraph (o) has been added to G.L. Ch. 71 §16, which lists the powers and duties of regional school committees, making the refinancing of debt one of those powers.

**§36 Conservation Commission Outside Consultants Revolving Fund.** Adds conservation commissions to the list of boards authorized under G.L. Ch. 44 §53G to use a special revolving fund for fees charged property owners for the purpose of hiring expert consultants to assist in reviewing applications and plans. **IGR 03-208 issued August 2003.**



**§38 Community Preservation Acquisitions.** Amends G.L. Ch. 44B §5, which sets out the duties and responsibilities of the community preservation committee in making recommendations for expenditure of community preservation fund monies and the allowable purposes for which such monies may be spent. The amendment adds a new paragraph (f), which exempts community preservation acquisitions from the real estate procurement procedures of G.L. Ch. 30B, the Uniform Procurement Act. The new paragraph also provides that any purchase price may not exceed the value of the property as determined by professionally accepted appraisal methods. This means that to the extent that G.L. Ch. 40 §14 applies to community preservation acquisitions, cities may now acquire real estate for more than 25% above its average assessed valuation for the previous three years.

**§§41 and 42 Supplemental Property Tax Assessments.** Removes the local acceptance provision of G.L. Ch. 59 §2D, which provides for a pro rata tax assessment on the value of certain improvements to real estate made after the January 1 assessment date. The assessment is made on those parcels for which an occupancy permit is issued during the fiscal year and the new construction increases the parcel value by over 50 percent. This assessment is in addition to the regular property tax that is assessed on the property based on its January 1 status. If the permit is issued between January 1 and June 30, a full supplemental tax assessment is imposed for the following fiscal year as well. In addition, the assessors must abate property taxes on any parcel in the community whenever it loses more than 50 percent of its value due to fire or other natural disaster after the January 1 assessment date. Under the amendment, the statute will now apply automatically unless DOR is notified by the selectmen, town council or city council, with the mayor's approval if required by law, of its rejection. Previously, the statute had to be accepted by a referendum election. **IGR 03-209 issued August 2003.**

**§§43-47, 71 Veteran Exemptions.** Amend G.L. Ch. 59 §5(22), (22A), (22B) and (22C) and G.L. Ch. 60A §1 to clarify that non-qualifying veterans and spouses who were mistakenly granted veterans exemptions for property taxes and motor vehicle excise may not continue to receive those exemptions in future years. Under prior law, assessors had to continue to exempt them even after the mistake had been discovered.

**§§48 and 49 Property Tax Exemptions for Cooperative Members.** Add a new local acceptance clause, Clause 55, to G.L. Ch. 59 §5, which lists property tax exemptions, and a new acceptance paragraph to G.L. Ch. 59 §5C, which provides for a residential exemption. If accepted, units leased to and occupied by members of cooperatives and occupied as their domiciles are considered owned by the members for purposes of making them eligible for personal exemptions or a residential exemption that require ownership. The portion of the property owned by a member would be in proportion to the member's share of stock in the cooperative to the total outstanding stock of the corporation. The exemption in the tax assessed to the cooperative is to be credited to the portion of the tax the particular member is charged by the cooperative. Acceptance of either provision is by vote of town meeting, town council or city council vote, subject to applicable charter provisions.

**§50 Proposition 2½ Overrides for Stabilization Funds.** Amends G.L. Ch. 59 §21C(g), which provides for the levy limit override under Proposition 2½. Under the amendment, a city or town that approves an override for the purpose of funding any stabilization fund may now only use the additional levy capacity resulting from that override in a subsequent year if two-thirds of the selectmen, town council or city council, with the mayor's approval if required by law, vote to "appropriate" that capacity for the same purpose. If so "appropriated," the assessors must raise the amount in the tax rate. If not so "appropriated," the municipality's levy limit is reduced for that year. Any such reduction is temporary and does not affect the calculation of future year's levy limits. Voters may approve a change in the purpose for which the additional levy capacity may be used in future years. This could be a change in the purpose of the stabilization fund or a reallocation of the funds to another municipal purpose. Approval of any change is by majority vote at a referendum. **IGR 04-201 issued January 2004.**

**§§52 and 54 Overdue Taxes and Charges.** Amend G.L. Ch. 59 §57 and 57C to require that property tax bills include a notice of the amount of taxes and charges that are overdue more than 90 days. Currently, DOR guidelines allow communities to include such a notice on the bills, but it is not required. **The annual IGRs on tax bills issued next spring for FY05 will be revised to reflect this legislation.**

**§53 and 54 Preliminary Tax Billing System.** Amend G.L. Ch. 59 §57C, which is a local option statute. Communities accepting that statute issue a preliminary tax bill by July 1 of each year and the actual bill by December 31 after the tax rate is set. The amendment would now allow communities to adopt this system with payments due on a semi-annual or quarterly basis. Previously, acceptance of the statute changed a community's payment schedule to a quarterly system. In addition, the amount of the preliminary tax is no longer based on the prior year's net tax on the property. It may now be set at any amount. **The annual IGRs on tax bills issued next spring for FY05 will be revised to reflect these changes, but technical amendments may be required in order to implement the semi-annual billing option.**

**§55 Application of Payments.** Adds a new section 3E to G.L. Ch. 60 that changes how collectors and municipal departments apply partial payments of local taxes and charges. Under the new provision, payments must now be applied first to any accrued interest, second to any collection costs added to the tax or charge and last to the tax or charge. Under prior law, taxpayers could direct that payments be applied first to the underlying tax or charge. The collector or department may apply the payment to the underlying obligation upon a determination that the amount of combined interest and costs may be waived. **See §68 below. IGR 03-210 issued August 2003.**

**§§56-67, 69-70 Collection Fees.** Increases various statutory fees, and adds new fees, for collection activities related to delinquent municipal taxes and charges. The new fees are:

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|--|-------------------------|
| • Preparing newspaper advertisement for tax taking     | \$10 per parcel         |
| • Title search in preparation for taking               | Actual legal fees (new) |
| • Posting notice of taking                             | \$5 per parcel          |
| • Collector's affidavit of proceedings                 | \$10 per parcel         |
| • Recording collector's affidavit of proceedings       | Actual cost per parcel  |
| • Preparing deed or instrument of taking               | \$10                    |
| • Issuance and delivery of warrant to deputy collector | \$10                    |
| • Mailing of notice of warrant by deputy collector     | \$12                    |
| • Service of warrant by deputy collector               | \$17                    |
| • Distrain of goods                                    | \$10 and costs          |

• Custody of distrained goods	Actual cost
• Arrest of taxpayer	Actual cost, plus travel rate of 30 cents per mile
• Custody of arrested taxpayer	\$10, plus travel rate of 30 cents per mile
• Service of demand by subpoena	Actual cost up to \$40
• Recording instrument of taking	Actual cost (new)
• Foreclosure action legal fees	Actual cost

**IGR 03-210 issued August 2003.**

**§68 Collector's Authority to Waive Interest and Charges.** Amends G.L. Ch. 60 §15, which gives the collector limited discretion to waive interest and collection costs on delinquent taxes. Under the amendment, the collector may now waive interest and costs when the total amount of accrued interest and costs on a particular obligation is \$15 or less. Under prior law, the collector could not waive once the amount accrued exceeded \$5. **IGR 03-210 issued August 2003.**

**§72 Quarterly Payment of Jet Fuel Excise Payments.** Amends G.L. Ch. 64J §12 to change payment of the local option jet fuel excise by the state to municipalities to a quarterly schedule. Previously, the payments were made on a semi-annual schedule.

**§83 School Transportation Fees.** Amends G.L. Ch. 71 §68, which requires the transportation of students in grades K-6 in certain cases. The amendment provides that school committees can charge fees to students they are not required to bus under this or other statutes in order to cover the transportation costs. An exemption is provided for students eligible for free or reduced lunches under the federal school lunch program. The committee may also establish exemptions for students from families at other income levels.

**§84 Transportation for Vocational Students.** Amends G.L. Ch. 74 §8A to make transportation optional for students enrolled in vocational schools outside their districts and allows school committees to charge a fee for providing it. An exemption is provided for students eligible for free or reduced lunches under the federal school lunch program. The committee may also establish exemptions for students from families at other income levels.

**§85 and 86 Moving Violation Fines.** Amend G.L. Ch. 89 §§9 and 11, to increase to \$150 the moving violation fines for failure to stop or yield at a marked intersection, failure to stop for a pedestrian crossing within a marked crosswalk, or blocking an intersection or crosswalk.

**§87 Municipal License Plates.** Allows the Registry of Motor Vehicles (RMV) to issue distinctive municipal registration plates for the purpose of supporting local programs.

**§§88-96 Non-resident Students Motor Vehicle Registrations.** Amend G.L. Ch. 90 §3 and 3½ to impose additional notice and filing obligations on non-resident students and local colleges for the purpose of enforcing Massachusetts motor vehicle registration laws, and assisting municipalities to collect excises, on the vehicles of those students. The information is generally to be provided to the local police department and assessors. Monies from fines imposed for violations of these requirements will be split equally between the state and the city or town in which the student customarily garages the vehicle. At least 40 percent of any funds received by the municipality is to be appropriated for the use of the police department.

**§97 Parking Violation Fines.** Amends G.L. Ch. 90 §20A to increase the maximum fine communities may establish for parking violations to \$25 if paid within 21 days, \$35 if paid thereafter, but before the parking clerk reports to the RMV, and \$50 if paid thereafter. Previously, the maximum fees were \$15, \$20 and \$35 respectively.

**§98 Auto Rental Surcharges.** Amends G.L. Ch. 90 §20E to increase to 60 cents the surcharge paid to cities and towns by car rental and leasing companies for each rental transaction initiated within their borders. The surcharge was 30 cents.

**§100 and 100A Innholder and Victualler License Fees.** Amends G.L. Ch. 140 §2 to increase the maximum fee a city or town may charge for the issuance of a license to an innholder or common victualler to \$75. On or after July 1, 2007, the maximum fee may be \$100. Previously, a community could not charge more than \$50.

**§101 Motor Vehicle Dealer and Junk License Fees.** Amends G.L. Ch. 140 §59 to increase the maximum fee a city or town may charge for the issuance of licenses to certain sellers of motor vehicles and parts, and operators of motor vehicle junkyards, to \$200. The maximum fee was previously \$100.

**§104 Fire Department Permit Fees.** Amends G.L. Ch. 148 §10A, which sets out the fee that may be charged by a fire department for a permit issued for various purposes including for the use and storage of various dangerous materials. The fee is now \$25 unless the selectmen, town council or mayor establish another amount which cannot exceed \$50. Previously the fee was \$5, with any locally established alternative capped at \$10.

**§107 Towing Fees.** Amends G.L. Ch. 159B §6B, under which the Department of Telecommunications and Energy (DTE) establishes the maximum fees that towing operators may charge for the towing of motor vehicle ordered by the police or other public authority. Under the amendment, a city or town may by vote of its council or selectmen establish the maximum rate that may be charged for towing within the community. The local rate cannot exceed the maximum rate set by the DTE.

**§108 Abandoned Checks.** Amends G.L. Ch. 200A §9A, which sets out an alternative procedure for municipal treasurers to follow in order to retain uncashed and abandoned checks (tailings) for the municipal treasury. Treasurers will notify apparent owners of the checks of the procedure for claiming them by mail and by posting on the municipality's web site, if any. For checks less than \$100, claims must now be made within 60 days of the notice or posting. For checks of \$100 or more that are not claimed within 60 days, the treasurer must still publish a list in a newspaper of general circulation and claims must be made within one year of publication. **An IGR explaining this legislation will be issued.**

**§112 Property Tax Exempt Study.** Requires DOR to investigate the economic impact on each city and town of the property tax exemption granted to nonprofit, charitable and educational institutions and to report its findings to the legislature by December 31, 2003.

**§113. Municipal Tax Amnesty.** Extends the deadline for local tax amnesty programs authorized by Chapter 4 §73 of the Acts of 2003 from December 31, 2003 to June 30, 2004. **IGR 03-211 issued August 2003.**

**§114 Cape and Islands Light Plant Debt.** Authorizes municipalities in Barnstable, Dukes and Nantucket counties that accept this provision to incur debt for up to 10 years to pay for municipal light plant construction costs necessary to replace overhead with underground facilities if required by ordinance or by-law under G.L. Ch. 166 §22D. Acceptance is by referendum.

**§116 Municipal Early Retirement Incentive Program.** Authorizes another early retirement incentive program for municipalities that is modeled upon the program previously authorized by Chapter 116 of the Acts of 2002. If not accepted by the legislative authority by October 1, 2003, the executive authority may accept it. No rehire restrictions are placed on the municipalities and they must collectively bargain for any changes to the payment of accrued vacation and unused sick leave. **See Public Employee Retirement Administration Commission (PERAC) memorandum No. 25-2003 issued August 6, 2003 for further information. See also Ch. 140 §114 of the Acts of 2003 below for amendment granting independent authority to executive body to limit program to specific departments.**

**§117 Use of Revenues from the Sale of Municipal Assets.** Authorizes a temporary exception to the restrictions set forth in G.L. Ch. 44 §63 regarding the use of proceeds from the sale or other disposal of municipal real estate (other than real estate acquired by tax title foreclosure). During FY04 and FY05, those funds that exceed \$500 may be appropriated for any municipal purpose. Use of the funds in a town requires a majority vote of the board of selectmen that is ratified by town meeting. In a city, a majority vote of the city council and approval by the mayor is required. Proceeds over \$500 from the sale of parkland are limited, however, to use for the acquisition of other land for park purposes or for capital improvements to parks.

**§118 Medicaid Reimbursements.** Requires for FY05 and FY06 that at least 50 percent of any Medicaid reimbursements received by certain cities, towns or regional school districts be credited to a separate fund that may be spent by the school committee for any educational purpose without appropriation. Ordinarily, all reimbursements belong to the general fund under G.L. Ch. 44 §72. Municipal school committees and the selectmen, manager or mayor may agree to a higher level of percentage. This requirement only applies to municipalities or districts that received a 15-20 percent cut in FY04 Chapter 70 aid and reduced net school spending as a result. It does not apply to cities and towns that finally approved their FY04 budget before July 31, 2003. **Technical amendments may be required in order for this provision to be implemented in FY05 and FY06.**

**§120 Mixed Use Property Tax Abatement Program.** Requires DHCD, in consultation with DOR, to establish a pilot mixed-use building rehabilitation abatement program for the purpose of stimulating the development of affordable housing in mixed-use structures. DHCD may approve applications from cities and towns for the creation of not more than 300 units of housing in each of the three fiscal years beginning in FY04. At least 50 percent of the units created must be affordable housing to occupants with household income less than 80 percent of the area wide median income determined by HUD. The units must remain affordable for 20 years, or the useful life of the property, whichever is longer. Any abatement would be approved for a maximum of seven years and would apply to the commercial portion of the property only. It would reduce the tax assessed on the property by effectively applying the residential tax rate to that portion, instead of the commercial rate, which would be higher in a community using multiple rates. DHCD may authorize a larger abatement if necessary to make the project economically feasible, with the maximum abatement capped at 50 percent of the residential rate.

**§122 Alternate Financing Structures.** Provides for use of existing alternate financing structures for public safety and utility services.

**§123 End of Year Budget Transfers.** Creates temporary exception to the requirements of G.L. Ch. 44 §33B regarding budget transfers in order to provide flexibility in making year-end budgetary transfers to avoid deficits. During the last two months of FY04 and FY05 only, transfers between departments in city budgets may be made without the approval of the department from which the transfer is made. Transfers in town budgets may be made by the selectmen or town council with the concurrence of the finance committee, instead of town meeting. Transfers made in this manner may not exceed 3% of the annual budget of the department from which the transfer is made. In addition, no transfers may be made from appropriations for municipal or regional schools or municipal light departments.



**§128 Unfunded Pension Liability Payments.** Allows cities, towns and districts that accept this provision to reduce payments for unfunded pension liabilities in FY04 and FY05. The reduction cannot be more than the amount by which FY03 local aid was reduced in the FY04 budget. In addition, the payment cannot be less than the amount required by the normal cost component of the funding schedule. A municipality needs the approval of PERAC and DOR before implementing this change. It does not apply to a municipality with a statutory emergency reserve of at least 2.5% of prior year non-school appropriations that is fully unexpended. The funding schedule is to be revised, but it cannot be extended beyond June 30, 2028, the original full funding deadline. Acceptance is by a vote of the legislative and executive bodies. **See PERAC memorandum No. 26-2003 issued August 6, 2003 for further information. BULLETIN 2003-19B issued October 2003.**

**§129 Ferry Fee.** Authorizes any city or town within Barnstable, Nantucket, Dukes and Bristol counties to impose an embarkation fee on all passenger ferry trips leaving from a port within the city or town. The fee may be set at an amount up to one dollar per one-way or roundtrip passenger ticket. Acceptance is by referendum. The selectmen, town council or city council with the approval of the mayor of any city or town with a port may place the question on the next municipal election ballot. The referendum question can include an exemption for commuter excursion fares. The question passes if a majority vote "yes." The ferry operator will pay over the fees to DOR on a quarterly basis. If the city or town does not share a harbor with any other city or town, it will receive 100 percent of the receipts. If it does share a harbor with another city or town that does not have ferry service, 25 percent will be credited to that city or town. The city or town that accepted the act will receive the balance. Upon certification by DOR, the state treasurer will distribute the funds quarterly. The monies received are deposited in a special fund to be appropriated by the city or town for the purpose of mitigating the impact of ferry service on the municipality. **See Ch. 55 §11 of the Acts of 2003 below for amendments that fix the fee at \$.50 and make other technical changes regarding exemptions and implementation procedures.**

**§130 Property Tax Receivables Study.** Establishes a special commission to study and make recommendations on improvements to the sale of tax receivables statute, G.L. Ch. 60 §2C. The committee includes the Commissioner of Revenue, Commissioner of Housing and Community Development, House and Senate chairs of the Joint Committee on Taxation, two members of the House and Senate and one representative from the Massachusetts Municipal Association, Citizen's Housing and Planning Association and Massachusetts Treasurers and Collectors Association.

**§135 Property Tax Classification and Motor Vehicle Excise Study.** Requires the Joint Committee on Taxation to study the minimum residential factor and motor vehicle excise provisions and report its findings, including proposed changes. The report is due December 1, 2004.

**Ch. 55      FY2003 SUPPLEMENTAL BUDGET**

**An Act Making Appropriations for the Fiscal Year 2003 to Provide for Supplementing Certain Existing Appropriations and for Certain other Activities and Projects.** *Effective August 21, 2003.*

**§6 Marriage Fees.** Strikes out Clause 42 of G.L. Ch. 262 §34, which sets the fee for notices of intention to marry and marriage certificates issued by city and town clerks in certain communities.

**§11 Ferry Fee.** Amends Ch. 46 §129 of the Acts of 2003, by fixing the amount of the embarkation fee that cities and towns within Barnstable, Nantucket, Dukes and Bristol counties may charge on passenger ferry trips at \$.50. In addition, all commuter excursion fares and school-related fares are now exempt from the fee. Previously, a city or town could set the fee at any amount up to \$1 and had the option of exempting the commuter excursion fares.

Acceptance is still by referendum placed on the next city or town election ballot by the selectmen, town council or city council with the approval of the mayor of any city or town with a port. The question is to read: "Shall the (city or town) accept the law that allows (city or town) to impose an embarkation fee of \$.50 per passenger per departing ferry trip?" The question passes if a majority vote "yes." The fee will now take effect on January 1 of the calendar year after acceptance.

The amendment also establishes certain record keeping requirements for ferry operators so that DOR can determine how to distribute any fees collected. **Guidelines explaining the implementation of the provision will be issued.**

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**Ch. 137      PUBLIC EMPLOYEES IN MILITARY SERVICE**

**An Act Relative to Public Employees Serving in the Armed Forces of the United States.** *Effective November 26, 2003.*

**§1 Payment of Net Salary.** Requires counties, cities, towns and regional school districts that accept this section to pay the base salaries of employees in the army and air national guards and the reserves of any branch of the service called to active military service after September 11, 2001, after deduction of the military service allowance they received from the United States, excluding overtime pay, shift differential pay, hazardous duty pay or any other additional compensation. The provision does not cover active duty training, which is already addressed by G.L. Ch. 33 §59. Employees paid under this provision retain all seniority or accrued vacation leave, sick leave, personal leave, compensation time or earned overtime while on active duty. Acceptance is by vote of the county commissioners, regional school committee, town meeting, town council or city council subject to applicable charter provisions.

**Ch. 138      PROPERTY TAX CLASSIFICATION STUDY**

**An Act Further Regulating Property Tax Payments in Cities and Towns.** *Effective November 26, 2003.*

Creates a special commission to draft legislation by January 12, 2004 to modify on a temporary basis the limits found in the tax classification law for allocating the annual property tax levy among residential and business taxpayers. The commission is also to look at the impact of any temporary adjustment on small business and farms. The five members of the commission are the: House and Senate chairs of the Joint Taxation Committee, Commissioner of Revenue, President of the Greater Boston Chamber of Commerce and Mayor of Medford. Also allows affected communities that wish to delay setting a tax rate until any remedial legislation is enacted to issue third quarter preliminary tax bills in an amount up to 125% of the first quarter bill. **BULLETIN 2003-21B issued December 2003. See Chapter 3 of the Acts of 2004, and BULLETIN 2004-02B issued January 2004, for temporary modifications in classification limits made as a result of legislation recommended by the commission.**

Ch. 140

**FISCAL YEAR 2004 SUPPLEMENTAL BUDGET**

**An Act Making Appropriations for Fiscal Year 2004 to provide for supplementing certain existing appropriations and for certain other activities and projects.** *Effective November 26, 2003, unless otherwise noted.*

**§§19 and 137 Stabilization Fund Interest.** *Effective July 31, 2003.* Amends G.L. Ch. 40 §5B, the municipal stabilization funds statute, to provide that any interest earned stays with the funds. That had previously been the case when it provided for a single fund, but that provision had been inadvertently omitted when the statute was amended by the Municipal Relief Act to allow for multiple purpose funds. **See Ch. 46 §14 of the Acts of 2003 above. IGR 04-201 issued January 2004.**

**§§20, 21 and 138 Constable Fees.** *Effective March 1, 2004.* Section 20 amends G.L. Ch. 41 §95A, which was added by the Municipal Relief Act. Under that provision, constables were to turn over to the municipal treasurer 50 percent of the increase in civil process fees they collect as a result of changes in the civil process fee structure that was in place before July 1, 2003. Under the amendment, that turnover must be made monthly by the fifth day of each month. In addition, the amount required to be turned over will be 25% of all civil process fees collected the previous month. Section 21 amends G.L. Ch. 41 §95B, which was also added by the Municipal Relief Act. That section requires that constables making turnovers submit an annual report to the municipal treasurer. The amendment eliminates certain reporting requirements regarding the number of civil transactions that occurred, the constables' expenses, including salary and other compensation information. **See Ch. 46 §20 of the Acts of 2003 above, which remains effective until March 1, 2004.**

**§114 Early Retirement.** Amends the municipal early retirement provisions of the Municipal Relief Act by allowing either the legislative or executive bodies to determine specific municipal departments that may be included or excluded from the local early retirement program. Currently, the provision requires the parties to act jointly to make the decision. As a result of the amendment, the executive branch may now make the decision on the departmental structure of the incentive, just as it has the authority to make decisions on the classification groups that may be eligible and the number of employees that may be eligible. **See Ch. 46 §116 of the Acts of 2003 above.**

**Ch. 158      FISCAL YEAR 2004 QUARTERLY TAX BILL MAILING EXTENSION**

**An Act Extending the Deadline for Mailing Quarterly Tax Bills.** *Effective December 23, 2003.*

Extends for FY2004 only the time for mailing fiscal year 2004 actual tax bills in communities using a quarterly tax payment system from December 31, 2003 to January 30, 2004. For the extension to apply, the board of selectmen, town council or city council must accept it. If accepted, actual FY 2004 tax bills are payable in two installments if mailed on or before January 30, 2004. The first installment (third quarter) is due February 1, 2004, or 30 days after the bills are mailed, whichever is later. The second installment (fourth quarter) is due May 1, 2004. Actual tax bills mailed after January 30, 2004 are payable in a single installment due May 1, 2004, or 30 days after the bills are mailed, whichever is later. Ordinarily under G.L. Ch. 59 §57C, actual tax bills must be mailed on or before December 31 to be payable in two installments. Also allows quarterly communities issuing a third quarter preliminary bill in FY 2004 to determine the amount of that bill for residential, open space, commercial, industrial and personal property classes using different percentages up to 125 percent of the first quarter installment payment. **BULLETIN 2003-23B issued December 2003.**

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**Last Act:      Chapter 172 signed by the Governor on January 8, 2004.**